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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,913	03/26/2004	Mauro Adami	035170-9002-02	9409
23409 7590 04/09/2008 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
EXAMINER				
CHOI, STEPHEN				
ART UNIT		PAPER NUMBER		
3724				
MAIL DATE		DELIVERY MODE		
04/09/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/810,913

Applicant(s)

ADAMI, MAURO

Examiner

Stephen Choi

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41 and 42 is/are allowed.
- 6) ☒ Claim(s) 38-40, 43-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 51-52, 54-57, and 65-66 are rejected under 35 U.S.C. 102(b) as being anticipated by Wadey US 3,059,842).

Wadey discloses all the recited elements of the invention including a cutting assembly including a cutting cylinder having a length (e.g., 10) including a plurality of independently actuated blades (e.g., 16) wherein at least one blade operable to sever and at least one blade remaining retracted during a full rotation of the cutting assembly (e.g., the element 16 is independently actuated and at least one blade is capable of being retracted during a full rotation while at least one blade is operable to sever the workpiece). Regarding claims 51 and 57, an opposing member (e.g., 14). Regarding claims 52 and 56, a plurality of actuators housed in an axis cavity (e.g., Figure 5).

3. Claims 38-39, 45-51, 53-58, and 62-66 are rejected under 35 U.S.C. 102(b) as being anticipated by Hallberg et al. (US 4,742,741).

Hallberg discloses all the recited elements of the invention including a cutting assembly having a length (e.g., 24) including a plurality of independently actuated blades (e.g., 268) wherein at least one blade operable to sever and at least one blade remaining retracted during a full rotation of the cutting assembly (e.g., the blades are

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independently and selectively actuated). Regarding claims 39, 51, and 57, an opposing member (e.g., 28). Regarding claims 45, 53, and 62, a pivoting part (e.g., 300).

Regarding claims 46, 48, and 63, e.g., see Figures 1-2. Regarding claims 47 and 64, a stop (e.g., 308). Regarding claim 56, a plurality of actuators (e.g., 304, 334). Regarding claim 58, a first fulcrum (e.g., Figure 2) and a second fulcrum (e.g., at 110).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 38-40, 43-44, 49-50, and 60-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wadey.

Wadey discloses the invention substantially as claimed except for the blade being operable to generate a continuous slit in the web wherein the slit being substantially transverse to a moving direction of the web. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a blade that is capable of generating a continuous slit in a web wherein the slit being substantially transverse to a moving direction of the web on the device of Wadey since the examiner takes Official Notice on the use of transverse slit as old and well known in the art of data processing systems for the purpose of recording data on a record medium. Biegel and Edburg show examples. Regarding claims 39, 51, and 57, an opposing member (e.g., 14). Regarding claims 40, 52, and 56, a plurality of

actuators housed in an axis cavity (e.g., Figure 5). Regarding claims 43-44 and 60-61, Wadey discloses the invention substantially as claimed except for rotary distributors and solenoid valves. Instead, Wadey teaches a selective control device with a pneumatic card sensing device connected with a plurality of control signal input ducts. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ rotary distributors and solenoid valves as taught by applicant's admitted prior art on the device of Wadey in order to facilitate controlling flow of fluid. Helmstadter shows an example of such rotary distributors and solenoid valves. Furthermore, Wehmeyer, Frajdenrajch, Schechter, and Hormell show examples of the use of rotary distributor with solenoid valves. It is noted that the common knowledge or well-known in the art statement of the previous office action has been taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. See MPEP § 2144.03.

6. Claim 59 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Hallberg.

Hallberg discloses the invention substantially as claimed except for ball joints. However it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ ball joints as taught by applicant's admitted prior art on the device of Hallberg in order to pivotally joining two parts. Pabodie and Jacquier show examples of a ball joint. It is noted that the common knowledge or well-known in the art statement of the previous office action has been taken to be

admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. See MPEP § 2144.03.

Allowable Subject Matter

7. Claims 41-42 are allowed.

Response to Arguments

8. Applicant's arguments filed January 4, 2008 have been fully considered but they are not persuasive.

Applicant contends that Wadey does not generate a slice as claimed and a continuous slit as claimed. Applicant further contends that Hallberg does not disclose a plurality of independently actuated blades positioned along the axial length of the cutting assembly and capable of retraction as claimed. Applicant argues that the blade on Hallberg's device completely severs the web. Applicant further argues that the data processing system would not work if punches were replaced with blades to generate a slit.

The examiner respectfully disagrees. Wadey does generate a slice (e.g., 34) in the web to create a hole wherein the slice having a length less than a width of the web and being substantially transverse to the direction of movement of the web. In addition, Hallberg teaches the cutting assembly (e.g., 24) having the plurality of independently actuated blades (e.g., 268) wherein each blade being positioned along the axial length of the cutting assembly to generate a slit/slice as claimed and the blades are independently and selectively actuated depending on the desired length. The claims do not require the plurality of blades being positioned adjacent to each other in an axial

direction. Moreover, the device of Hallberg is capable of producing slices having a length less than a width of the web depending on the width of the web. In addition, Biegel and Edburg references are cited to show that the use of transverse slit is old and well known in the art and a person of ordinary skill in the data recording art would have the knowledge to employ a proper data reading device to accommodate different configurations of recorded data.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Thursday 9:00-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen Choi/
Primary Examiner, Art Unit 3724
4 April 2008